

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE TENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO : 389 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 18/02/2005 in WP NO: 16968 of 2004 on the file of the High Court.)

Between:

M.Sudershan, s/o M.Bhoomaiah,
Gram Panchayath, Mallial, Karimnagar District.

..... APPELLANT

AND

- 1 The District Collector (Panchayats), Karimnagar.
- 2 The Government of A.P., rep., by its secretary to Government,

Panchayat Raj and R.D.Department,
A.P.Secretariat, Hyderabad.

- 3 Gaddam Sajan Kumar, s/o Sri ramulu,
r/o Mallial Village and Mandal, Karimnagar District.

.....RESPONDENTS

Counsel for the Appellant: MR.S.SATYAM REDDY

**Counsel for the Respondent Nos 1 & 2.: GP FOR PANCHAYAT RAJ & RURAL
DEV.**

Counsel for the Respondent No.3: Mr.A.Sudershan Reddy

The Court at the stage of admission made the following :

ORAL ORDER: (Per the Hon'ble the Chief Justice)

Heard the learned counsel for the appellant and gone through the order passed by the learned single Judge dismissing the writ petition. The order dismissing the writ petition is not placed on record since the petitioner sought dispensation to file the same.

Petitioner-appellant questioned the proceedings dated 11.9.2004 issued by the 1st respondent in exercise of the powers under Section 249(6) of the A.P.Panchayat Raj Act,1994 (for short 'the Act') placing the petitioner-appellant under suspension pending enquiry against him. On filing of the writ petition, the said order of suspension was stayed and the same continued till the writ petition was decided on 18.2.2005. On the appeal being filed, the Division Bench had again suspended the order of suspension. Thus, virtually till date the order dated 11.9.2004 has remained under suspension.

The grievance of the appellant is that the power under sub-section (6) of Section 246 of the Act can be exercised only when the District Collector is of the opinion that Sarpanch has wilfully omitted or refused to carry out the orders of the Government for proper working of the panchayat or has abused his position or power vested in him and that further continuance of such person in the office would be detrimental to the interest of the gram panchayat. He submits that neither from the show cause notice nor from the order, these ingredients are satisfied and more over the petitioner-appellant is not at all concerned with the misappropriation of the amounts for which other officials of the Panchayat may be responsible. He also submits that only identity cards were issued to the villagers by him and therefore he is not concerned with as to for what purposes those identity cards were used by the

villagers.

There is no doubt that on 18.10.2004 show cause notice was issued to the petitioner-appellant to which he submitted a reply and on 11.9.2004 a detailed order was passed by the Collector after going through the reply submitted by the appellant. For our perusal, the records are also produced which do reflect that there was sufficient material before the Collector to come to the conclusion that the petitioner-appellant-sarpanch had abused the powers vested in him inasmuch as the report suggests that the petitioner-Sarpanch had no authority to issue the identity cards and sanction old age pensions to others without following due procedure. He had also violated the rules and regulations which are in force and issued identity cards to the newly sanctioned pensioners by himself for which he has no competency, of which 14 identity cards were taken into custody by the Mandal Parishad Development Officer.

We have also gone through the Photostat copy of the identity cards issued by the petitioner. In the said cards the status of the persons to whom those cards were issued was shown as 'pensioner'. Petitioner- appellant does not dispute having issued the identity cards. Under these circumstances, it cannot be said that respondent No.1 has exercised the authority arbitrarily or without application of mind and such exercise of authority in passing the order of suspension pending detailed enquiry cannot be interfered with by this Court in exercise of writ jurisdiction and rightly the learned single Judge has dismissed the writ petition

It is needless to add that suspension has to remain in force for a period of three months and the period can further be extended by another three months by the Government beyond which there cannot be further extension. Virtually the order of suspension was stayed by this Court and therefore that period shall be excluded from the above mentioned period.

We find no force in the appeal. It is accordingly dismissed.

DEVINDER GUPTA, C.J

Dated 10..03..2005

B.SESHASAYANA REDDY,J

msv

To

- 1 The District Collector (Panchayats), Karimanagar.
- 2 The Secretary to Government,

Panchayat Raj and R.D.Department,

Government of A.P., Secretariat, Hyderabad.

3. 2 CCs to G.P. for Panchayat Raj, High Court of A.P, Hyderabad (OUT)

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